

MISSISSIPPI
STATE TAX COMMISSION
OFFICE OF REVENUE
FORM 85-100

1999

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ON YOUR RETURN

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1999 Small Business Corporation Income & Franchise Tax Forms

If someone else prepares your income tax return, please take this forms packet to that person so the peel-off label above and the enclosed envelope may be used for your return. There are some important things you can do to help speed processing and reduce the cost of your government:

- **Use the peel-off label.** Remove the label and place it in the name and address area of your return. If the label is NOT correct, neatly mark through incorrect information and plainly print or type correct information on the label. **DO NOT USE THIS LABEL ON COMPUTER GENERATED FORMS.**
- **Use the envelope enclosed inside this booklet.**
- Additional schedules and attachments may be stapled to your return.
- C-Corporations and S-Corporations have separate forms booklets this year. If you received the wrong booklet, please call (601) 923-7000 for the correct set of forms and instructions.
- **Web site** - Please visit our web site located at <http://mstc.state.ms.us> to find any updates to the instructions and/or worksheets that are contained in this booklet. Click on **Tax Area** in the index and then on **Corporate Income and Franchise Tax, Partnerships, LLP, LLC.**

GENERAL INSTRUCTIONS

HOW TO FILL OUT FORMS

Use **Black Ink** when preparing these returns.

Indicating a Loss - To indicate a loss (negative income), shade the minus (-) box next to the dollar amount. See the example on page 7 of this booklet.

Who Must File

"S corporation" means a corporation for which a valid election under section 1372(a) of the Internal Revenue Code is in effect. A corporation must file Form 85-105, Mississippi S Corporation Income and Franchise Tax Return, if (a) it elected to be an S corporation by filing Federal Form 2553, (b) the IRS accepted the election, and (c) the election remains in effect. Do not file Form 85-105 until the corporation has been notified by the IRS that the Federal election has been accepted.

Every S corporation, domesticated or qualified to do business in Mississippi, and every S corporation engaged in business in Mississippi or having sources of income from Mississippi, must file a Mississippi combination S Corporation Income and Franchise Tax

CHANGES FOR 1999:

Attention: Multistate Taxpayers. The 1997 Regular Session of the Mississippi Legislature changed the way that the Mississippi receipts for the franchise tax apportionment ratio is calculated. Starting for years ending on or after January 1, 1999, taxpayers that apportion their income to Mississippi using an apportionment method that includes a sales or receipts ratio will no longer use the income tax ratio to calculate the Mississippi receipts for the franchise tax apportionment ratio. See instructions in this booklet for details. (1997 House Bill 1816)

NEW 1999 LEGISLATION

The 1999 Regular Session of the Mississippi Legislature deleted the requirement to use the cost method of accounting in determining the ratio to be used by holding corporations to make the holding company exclusion of capital from its capital base. For tax years ending after 3/16/99. (Senate Bill 2740) Amended section 27-13-9(2)

A new tax credit was added that provides an income tax credit to certain taxpayers who incur costs for approved reforestation practices. S Corporations must use Form 83-315, Reforestation Tax Credit. The credit earned by the S Corporation is passed through to the shareholders and claimed on their returns as a credit against their income tax liability. See instructions inside. (House Bill 382)

For years beginning on or after 1/1/99 dividends received by a holding corporation, as defined in Section 27-13-1, from a subsidiary corporation, as defined in Section 27-13-1, are excluded from gross income. (Senate Bill 2919) Created Section 27-7-15(4)(t)

Return, Form 85-105.

Every S corporation domesticated or qualified to do business in Mississippi must file a return even though the corporation is inactive or not otherwise engaged in business. **SUCH A CORPORATION REMAINS SUBJECT TO THE FILING REQUIREMENTS UNTIL SUCH TIME AS THE CORPORATION IS OFFICIALLY DISSOLVED OR WITHDRAWN THROUGH THE OFFICE OF THE MISSISSIPPI SECRETARY OF STATE.**

An S corporation is not subject to income tax imposed by Section 27-7-5, Mississippi Code of 1972. However, every S corporation domesticated or qualified to do business in Mississippi is subject to the measure of the franchise tax levy. Further, foreign S corporations engaged in business in Mississippi or having sources of income in this state who have not qualified to transact business in this state through the offices of the Secretary of State are subject to the measure of the franchise tax levy.

Under Section 27-7-23(c)(1) and Section 27-13-7 of the Mississippi Code of 1972 as amended, every foreign corporation (those chartered outside Mississippi) which has

obtained a certificate of authority from the Secretary of State to do business in Mississippi, or which is in fact doing business, as defined in the Mississippi Code Sections above, regardless of qualifications, is subject to the franchise tax levy and is required to file annual franchise tax returns.

Any corporation subject to the filing requirements noted in the paragraph above **MUST FILE A FRANCHISE TAX RETURN BASED ON THE CAPITAL EMPLOYED IN THE STATE**. When a corporation obtains a certificate of authority from the Secretary of State to do business in Mississippi, such organization receives the benefit and protection of the government and laws of the state.

Termination of Election

Once the election is made to be treated as an S corporation, it stays in effect until it is terminated. Mississippi will consider the election to be terminated at such time as the election is considered terminated for Federal purposes.

Time and Place for Filing

The Mississippi S Corporation Income and Franchise Tax Return, Form 85-105, must be filed with the Commissioner on or before the fifteenth day of the third month following the close of the accounting year. If the due date falls on a Saturday, Sunday, or legal holiday, file on the next business day. A business day is any day that is not a Saturday, Sunday, or legal holiday.

If the S election was terminated during the tax year, the due date of Form 85-105 is on or before the 15th day of the 3 month following the date of termination.

The return should be sent to: **Office of Revenue, P. O. Box 23050, Jackson, Mississippi 39225-3050**. If filing a return involving a QSSS, final return, or amended return, send to: **Office of Revenue, P. O. Box 1033, Jackson, MS 39215-1033**.

Period Covered by the Return

File the 1999 return for calendar year 1999 and fiscal years beginning in 1999 and ending in 2000. If the return is for a fiscal year or a short tax year, fill in the tax year space at the top of the form.

Payment of Tax

The due date for any franchise tax owed by an S corporation is the due date of the return.

An S corporation does not pay tax on its income but "passes through" any profits or losses to its shareholders. Shareholders must include S corporation items on their individual income tax returns.

Individual shareholders are subject to tax upon their distributive share of S corporation net income, whether it is distributed to them or not. A nonresident shareholder, who is a shareholder of an S corporation owning property or doing business in the State of Mississippi, is subject to tax on his share of the S corporation income, whether distributed or not. If the S corporation does business both within and without the state, it will be necessary to compute the income (or loss) of the S corporation from sources within the state separately from the other income in order to determine the amount of income taxable to (or the amount of the loss deductible by) the nonresident shareholders. The nonresident shareholder is subject to tax only on such share of his income, whether or not distributed, as is assignable to Mississippi.

All nonresident shareholders of Mississippi S corporations are required to execute an agreement (a) to file a return and to make timely payment of all taxes imposed on the shareholder by the state of Mississippi with respect to the income of the S corporation, and (b) to be subject to personal jurisdiction in this state for purposes of the collection of income taxes, together with related interest and penalties, imposed on the shareholder by this state with respect to the income of the S-Corporation. Form 85-380, Nonresident Income Tax Agreement, should be filed with the S-Corporation and maintained by the S-Corporation as a part of its permanent tax files. A reproducible copy of Form 85-380 is included as a part of these instructions.

In the event the S corporation fails to obtain the agreement of a nonresident shareholder indicated above or in the event a nonresident shareholder fails to file a return and to make timely payments of all taxes imposed on the shareholder by this state, the S corporation shall make a payment to the state in an amount equal to the highest marginal tax rate in effect under section 27-7-5 (5% for the year 1998) multiplied by the shareholder's pro rata share of the income attributable to the state reflected on the corporation's return for the taxable period.

An S corporation may elect to file a composite return and make composite payments of tax on behalf of some of its nonresident shareholders in limited circumstances. A composite return is a return in which an S corporation pays the income tax due for some or all of its nonresident shareholders. The only shareholders who are eligible to be included in the composite return are nonresident shareholders without any activity in Mississippi other than that from the S corporation. **If a nonresident is going to file a Mississippi nonresident individual tax return he or she should not be included in a composite return, but**

should separately pay estimated taxes as an individual using voucher Form 80-300.

The rates of tax used on a composite return is 3% on the first \$5,000 of taxable income, 4% on the next \$5,000 of taxable income, and 5% on taxable income in excess of \$10,000. Resident shareholders and nonresident shareholders with other activity in Mississippi cannot be included in a composite return. Each of these shareholders must file his own return.

If a composite return is filed, the S corporation return is completed like any other S corporation return, but an additional schedule is attached listing the shareholder's identification or taxpayer identification number and the shareholder's distribution that is to be included in the composite return. The S corporation then pays the tax on this income at the regular corporate rates. If the S corporation wants a deduction for the individual's personal exemptions and standard deduction, then instead of paying tax on the corporate return, the composite return income is reported on one nonresident individual return under the S corporation's name and identification number. On this return, the S corporation is allowed to deduct 10% of the adjusted gross income of the nonresident individuals reported on this return up to a maximum of \$5,000 per composite return.

Once an S corporation begins filing a composite return, it must continue unless permission to change is granted in writing by the Commissioner.

Extension of Time to File Return

The Commissioner may grant a reasonable extension of time beyond the statutory due date to file an income/franchise tax return. **THE AUTHORIZED EXTENSION OF TIME TO FILE DOES NOT EXTEND THE TIME FOR PAYMENT OF THE INCOME OR FRANCHISE TAX DUE. INTEREST and PENALTY** shall apply on any **UNDERPAYMENT OF TAX**. Taxpayers having a tax liability who request an extension of time must remit the tax due with their Mississippi application for extension. The S corporation may submit Form 83-180 on or before the due date of their returns, including any remittance for any tax liability, and receive an automatic extension of time to file their tax returns.

INTEREST AND PENALTY PROVISIONS

Late Payment - Interest at the rate of 1% per month from the regular due date until paid, is due on the amount of unpaid tax whenever such is not paid on the regular due date, even though an extension of time to file the return has been granted or authorized. The penalty imposed for failure to pay the tax when due is 1/2% per month based on tax not paid by the due date not to exceed 25% in the aggregate.

Late or Non-File - Penalties are imposed for failure to file a return or pay the tax when due. The penalty imposed for failure to file a return is 5% per month not to exceed 25% in the aggregate. The penalty imposed for failure to file is based on the additional amount of tax due, not total tax due on the return. Such failure to file a return penalty shall not be less than \$100.

Incomplete Returns - An S corporation that does not file a complete return or does not file a return within the prescribed time may be subject to a penalty of \$25 per required attachment or schedule up to a maximum of \$500 per return.

To be a complete return, a return should contain all the requisite general information, as well as all summary tax information and the basic back up schedules.

Examples of the required general information are complete name, current address, ID number, officer's signature, and other information relating to the filing entity as requested on page 2 of Form 85-105.

Examples of the summary tax information are the front page of the return, the computation of net income, the franchise tax schedules, the computation of the apportionment factor (if income is apportioned), the direct accounting income statement (if applicable), the balance sheet, schedules showing the computation of any tax credit generated (such as jobs credit) and schedule K reflecting information pertaining to shareholders' distributive shares of income and deductions.

Examples of the basic backup schedules are details of other additions or other deductions as requested on the computation of net income schedule, details of other additions or other deductions as requested on other statements made a part of the return, and details of nonbusiness income or loss directly allocable to Mississippi and other business income or loss as requested on the front page of the return.

The purpose of this penalty provision is to ensure that sufficient information is disclosed on the return to assure the collection of the correct tax due. If a minor schedule is inadvertently omitted one time from the tax return, the penalty will not be imposed; but if major schedules (such as the balance sheet) are omitted or incomplete, or if schedules are consistently omitted or incomplete, then the penalty will be imposed. The more severe or consistent the omission, the more likely it is that the penalty will be imposed.

Rates of Tax

(a) Franchise tax - \$2.50 per \$1,000, or fractional part thereof, of capital, surplus, undivided profits and true reserves employed in Mississippi. (Minimum tax of \$25) (b) (Composite Return) Income Tax - 3% on the first \$5,000 of taxable income, 4% on the next \$5,000 of taxable income, and 5% on taxable income in excess of \$10,000.

The return must be signed by the president, vice president or other officer of the corporation. A receiver, trustee, or assignee must sign any return which he/she is required to file on behalf of an S corporation.

INSTRUCTIONS FOR DETERMINING FRANCHISE TAX

The franchise tax is measured by the value of capital used, invested or employed in the exercise of any power, privilege or right enjoyed by the corporation within Mississippi. The mode of measurement is the amount of capital of the corporation employed or so situated as to be privileged to be employed in the state. In determining the amount of capital, the net book value as regularly employed in conducting the affairs of the corporation shall be accepted as prima facie correct as to the true capital of the corporation, except where the Commissioner determines that the book value does not properly reflect capital employed in this state and in that situation the Commissioner's determination of capital shall be prima facie correct.

Form 83-110, Corporate Franchise Tax Schedule, must be completed by all corporations indicating the amount of capital of the corporation. All reserves which do not represent definitely known and fixed liabilities must be considered as elements of capital of the corporation. Amounts designated for payment of dividends may not be excluded unless such amounts have been definitely and irrevocably placed to the credit of the stockholder, subject to withdrawal on demand. Sums representing debts, notes, bonds, mortgages due and payable, depreciation reserves, bad debt reserves, or reserves representing valuation accounts may be excluded (unless between affiliated companies or shareholders).

Attention: Multistate Taxpayers

Lines 10 through 13 of Form 83-110 must be completed by multistate corporations doing business both within and without Mississippi. Total capital of a multistate corporation is apportioned to Mississippi in the ratio that real and tangible personal property owned in Mississippi and gross receipts from business carried on in Mississippi bears to the total real and tangible personal property owned by the corporation and gross receipts wherever located and from wherever received. **All franchise tax returns that have a year ending on or before December 31, 1998 will calculate the Mississippi receipts for franchise taxes in the same manner as in previous years. Starting for years ending on or after January 1, 1999, taxpayers that apportion their income to Mississippi using an apportionment method that includes a sales or receipts ratio will no longer use the income tax ratio to calculate the Mississippi receipts for the franchise tax apportionment ratio. They will use the same receipts in the franchise tax apportionment ratio as used in the income tax sales ratio and then add to both the numerator and denominator any non apportioned income. Those taxpayers whose income tax ratio does not include a sales or receipts ratio must continue to use the income tax ratio to calculate the Mississippi receipts in the franchise apportionment formula.** Those taxpayers that use direct accounting or have only allocable Mississippi income will continue to use the same receipts as before.

The Mississippi Code that was amended is as follows:

27-13-13. (1) In the case of organizations doing business both within and without Mississippi, the value of the capital employed in this state shall be determined by first computing the ratio between (1) the real and tangible personal property owned in Mississippi and gross receipts from business carried on in Mississippi, and (2) the total real and tangible personal property owned and gross receipts wherever located and from wherever received. Said ratio then shall be applied to the total capital stock, surplus, undivided profits and true reserves and the result of that application shall be the capital employed in this state. Provided, however, that the amount of the determined capital in Mississippi shall in no case be less than the assessed value of the Mississippi property of the organization for the year preceding the year in which the return is due.

(2) (a) For the purpose of this section, for tax returns for tax years ending before January 1, 1999, an organization which uses a formula method of apportionment in making income tax returns to this state shall determine its gross receipts from business carried on in Mississippi by applying to total unitary receipts the ratio achieved, or which would be achieved, by such formula and adding to the result of such application any nonunitary Mississippi receipts.

(b) For the purpose of this section, for tax returns for tax years ending on or after January 1, 1999, the gross receipts of an organization that is required to use a formula method of apportionment in making income tax returns to this state shall be the same (both as to gross receipts from business carried on in Mississippi and gross receipts wherever located) as the gross receipts (or sales) used for the receipts or sales factor in the applicable income tax formula. However, gross receipts from business carried on in Mississippi, for the purposes of this section, shall also include any receipts from the taxpayer's business operations which are not apportioned but rather are directly allocated or assigned to this state. If the taxpayer is required to use a formula method of apportionment in making income tax returns which does not have a receipts or sales factor, then the receipts factor for the franchise tax formula shall be determined by regulation of the commission.

in Mississippi must be completed by all corporations. Sections 27-13-9 and 27-13-13, Mississippi Code of 1972, provide that the amount of the determined capital in Mississippi shall in no case be less than the assessed value of the Mississippi property of the corporation for the year preceding the year in which the return is due.

Taxable capital and the net franchise tax due are calculated on lines 16 through 20 of Form 83-110. The amount of taxable capital shown on line 17 should be entered on line 1, Form 85-105. The net franchise tax due as shown on line 20 should be entered on line 2, Form 85-105.

INSTRUCTIONS FOR COMPUTING TAXABLE INCOME

Generally, all domestic and foreign S corporations having income from sources within Mississippi must complete Form 85-122, Computation of Net Taxable Income Schedule, which makes adjustments for additions to and deductions from Federal ordinary income due to differences in Federal and Mississippi laws, in arriving at the net income (loss) for State purposes.

Total Assignment of Income. If the business activity in respect to any trade or business of the S corporation occurs within this state, and if by reason of such business activity the S corporation is not taxable in another state, the total net income (loss) of the S corporation is assigned to Mississippi.

Direct or Separate Accounting. Any S corporation, taxable both within and without this state, which maintains or could maintain books of account detailing allocation of receipts and expenditures reflecting clearly the business income attributable to property owned or business done in this state, shall determine Mississippi net business income (loss) from such business activity on the basis of direct or separate accounting. See Regulation 806 for guidelines and details. Multistate entities filing direct accounting must complete Form 83-124, Direct Accounting Income Statement. Multistate construction contractors must complete page 2 of Form 83-124.

Apportionment of Business Income. If the business activity in respect to any trade or business of an S corporation occurs both within and without this state, and if by reason of such business activity the S corporation is taxable in another state, the portion of the net income (loss) arising from such trade or business which is derived from sources within this state, shall, where direct or separate accounting of net income (loss) is not feasible, be determined by apportionment in accordance with the formulas prescribed by Regulation 806. In such case, the S corporation must complete Form 83-125, Mississippi Business Income Apportionment Schedule.

Allocation of Nonbusiness Income. Nonbusiness income (loss) shall be allocated by multistate S corporations within and without this state in accordance with the provisions of Regulation 806.

Divisional Accounting. If the business activity in respect to any trade or business of an S corporation is conducted on a division basis and a division or divisions of the S corporation are "doing business" within this state, the Mississippi taxable income of the S corporation, where separate accounting is or can be maintained on each division, shall, at the election of the Commissioner, be determined on a divisional basis in lieu of a company-wide accounting basis. See Regulation 806.

BUSINESS INCOME OF PRODUCERS OF MINERAL OR NATURAL RESOURCE PRODUCTS

Taxpayers engaged in the trade or business of producing oil, gas, other liquid hydrocarbons, sulphur, coal, sand, gravel and other mineral or natural resource products, except timber, shall determine Mississippi net business income from such activity on a direct or separate accounting basis. The Mississippi gross business income from the production of mineral or natural resources shall include:

(a) Sales of natural or mineral resources produced in Mississippi and sold in this state; (b) the market value, at the time of transfer, of all natural or mineral resources produced in this state and transferred by the taxpayer to another state for sale, refining, processing or manufacturing, provided that if the natural or mineral resources are sold by means of an "arms-length" transaction prior to refining, processing or manufacturing, the market value prescribed herein shall not exceed the selling price; and (c) the market value at the time of transfer, of all natural or mineral resources produced by the taxpayer in Mississippi and transferred to a refinery, processing plant, or manufacturing facility of the taxpayer in Mississippi.

A natural resource product shall be deemed to be sold in Mississippi if it is located in this state at the time title thereto passes to the purchaser. In the absence of specific proof of value of natural resources at the time of transfer from the state, the value of natural resources at the time of production shall be determined in accordance with the methods prescribed for the determination of "gross income from the property" for purposes of percentage depletion for federal income tax purposes.

TREATMENT OF A QSSS AND IT'S PARENT - INCOME AND FRANCHISE

If a Corporation is doing business in Mississippi and is owned 100% by a S-corporation and no Federal Qualified Subchapter S Subsidiary (QSSS) election is in effect, the corporation actually doing business in Mississippi would file its own return, paying its own franchise and income taxes. If a federal election is made to treat the subsidiary as a QSSS, the QSSS would be required to file a return for its franchise tax only. All of the income, deductions

and credits of the QSSS would be included in the return of the parent S-corporation, and the parent S-corporation would be required to file on the basis of multistate apportioning or direct accounting. For franchise tax purposes if the parent S-corporation has no other activity in Mississippi except through a QSSS then only the minimum \$25.00 franchise tax will be due from the parent S-corporation.

CAPITAL GAINS AND LOSSES

The Federal Schedule D and Federal Form 4797 cannot be used for the Mississippi return, but the federal forms have been replaced with similar state forms. Federal Schedule D has been replaced by state Form 83-135. Federal Form 4797 has been replaced by state Forms 83-140 and 83-145. The reason for this is that for state purposes some types of gains and losses must be allocated and some must be apportioned. A taxpayer should only use the forms that apply to it.

Mississippi Form 83-135 should be substituted for Federal Schedule D. It provides for both apportioning capital gains and losses and allocating capital gains and losses to Mississippi on one page. All corporations that are not multistate (100% of their income is reported to Mississippi) should use Form 83-135, Column f. Multistate corporations may need to use both Columns f and g. A multistate corporation must segregate gains and/or losses into business (see Regulation 806 for state definition of business income) and non-business. If the corporation apportions income, then business gains or losses would be apportioned and non-business gains or losses would be allocated. Business gains or losses subject to apportionment would be computed on Form 83-135, Column g. Non-business gains or losses allocated to Mississippi would be computed on Form 83-135, Column f, and would include only the allocated Mississippi property and amounts.

Mississippi Form 83-140 should be substituted for Federal 4797 and should be used for gains or losses that are allocated directly to Mississippi. Form 83-145 should also be substituted for Federal Form 4797, but it should be used for gains or losses that are apportioned to Mississippi.

If a corporation files showing all of its income in Mississippi, the state form should still be used. The correct form(s) to use are Forms 83-135 and 83-140. The state form should still be used because the state carryforward may be different and some of the items that flow into the federal forms (casualty and theft losses, etc.) may be different for state purposes.

For Mississippi income tax purposes, a multistate corporation either allocates (directly assigns) or apportions income.

If a taxpayer files using separate accounting (allocates), then income is directly assigned to the different states in which the taxpayer is doing business. Even if separate accounting is used, any general or administrative income, such as business dividends should be apportioned between the states in which the corporation is doing business. If a corporation files using separate accounting, then any gains or losses other than G&A gains or losses should be computed on the correct state form (Form 83-135 or Form 83-140) for allocation. The G&A gains or losses should computed on the correct state form (Form 83-135 or Form 83-145) for apportionment. Both forms (if used) would then be attached to the return and the Mississippi amounts computed on the form(s) entered into the appropriate income schedule.

If a taxpayer files using an apportionment formula, then income is apportioned (on a percentage basis) among the states in which the taxpayer is doing business. Gains or losses from the sale of business assets (Mississippi's definition of business assets, not the federal definition; see Regulation 806 for more detail) is apportioned. Gains or losses from the sale of nonbusiness assets are allocated. For gains or losses that are apportioned, use Form 83-135 or Form 83-145. For gains or losses that are allocated, use Form 83-135 or Form 83-140.

Forms 83-140 and 83-145 have not been included in this booklet. They may be obtained by calling 601-923-7800 or requested on our web site located at <http://mstc.state.ms.us>.

Long Term Capital Gains from Sales of Stock/Interest in Domestic (Mississippi) Corporations, Limited Partnerships or Limited Liability Companies

The 1997 Regular Session of the Mississippi Legislature amended Section 27-7-9 of the Mississippi Code of 1972 to clarify how gains that are not recognized from the sale of interests in certain Mississippi businesses are treated for income tax purposes and for related purposes. The amendment was effective March 18, 1997 and codified in Section 27-7-9(f)(10) and is generally effective for taxpayers whose tax year begins from and after that date. A copy of the amendment is reproduced on page 2 of Form 83-135, 1999 Allocable and Apportionable Capital Gains and Losses Schedule.

"Domestic" means the corporation, limited partnership, or limited liability company must have been incorporated or formed in the State of Mississippi.

INCENTIVE CREDITS

Incentive credits arising at the S corporation level are passed through to the shareholders based on their percentage of stock ownership in the S corporation earning the credit. As a general rule, the credit passed through to the shareholder can be applied only to the income tax attributable to the shareholder's income derived from the S corporation earning the credit.

In the case of a Mississippi resident who is a shareholder in a multistate S corporation, credits passed through from the S corporation may be used to offset only the amount of income tax attributable to the shareholder's share of S corporation income assigned to

Mississippi.

Form 83-401, Income Tax Credit Summary, should be completed and attached as a part of the return.

The following is a brief description of the major credits allowed under State statutes:

Jobs Tax Credit. A credit is allowed for increasing employment levels in certain types of business. For a credit to be allowed, the business must be primarily engaged in manufacturing, processing, warehousing, distribution, wholesaling, or research and development; or designated by rule and regulation by the Department of Economic and Community Development as air transportation and maintenance facilities, final destination or resort hotels having a minimum of 150 guest rooms, or movie industry studios, or telecommunications enterprises.

The amount of the credit or exemption is determined by the classification of the county in which the qualified job is located. The 82 counties are divided into 3 groups. These groups are less developed, moderately developed and developed.

Credit is allowed annually for each net new full time job created for 5 years beginning with years 2 through 6 after the creation of the job. Credit is not allowed for a year if the net employment increase falls below the minimum level. The dollar credit per employee and the minimum number of new jobs needed to be created, in a given year, to qualify for this credit is listed below.

County Classification	Minimum No. of Jobs in a Given Year	Dollar Credit Per Job
Less Developed	10 or More	\$2,000 Annually
Moderately Developed	15 or More	\$1,000 Annually
Developed	20 or More	\$500 Annually

The number of jobs created is calculated by taking the average level of employment for the given year (taxpayers reporting period for income tax) less the average level of employment of the prior reporting prior (12 months). The Corporate Tax Section should be consulted if short periods are involved. This is the only credit that involves the use of a average increase over the prior year in its calculation.

Form 83-450, New Jobs Credit Schedule, must be completed and attached to the return.

National and Regional Headquarters Credit. A credit of \$500 for each net new full-time employee is allowed for any company establishing or transferring its national or regional headquarters from within or outside the State of Mississippi. The headquarters credit is available to any company regardless of the business in which it engages except for businesses engaged in the transportation, handling, storage, processing or disposal of hazardous waste.

Research and Development Jobs Skills Credit. A \$500 credit is authorized for each full-time employee in any new job requiring research and development skills. Specific examples of jobs requiring research and development skills are chemists and engineers. Qualification of other jobs for this credit would require as a minimum a bachelors degree in a scientific or technical field of study from an accredited four (4) year college or university, employment in the area of expertise and compensation at a professional level. The research and development job credit is available to any company regardless of the business in which it engages.

A business interested in qualifying for the research and development jobs tax credit should request approval in writing and provide the following information for each individual research and development position: (1) Title, (2) Purpose, (3) Education requirements, (4) Experience requirements, (5) Hours worked per week, (6) Salary or compensation and (7) Expected hire date. The applicant will be notified on approval of the application for credit.

Businesses that employ a person in an approved research and development job for less than their full tax year will be allowed that portion of the \$500 yearly credit in the ratio that the number of qualified full months that the employee worked in the state divided by 12.

Child/Dependent Care Credit. An income tax credit is allowed to any employer providing dependent care for its employees during the employee's working hours. The credit allowed is 50% of qualified expenses. This credit can offset 100% of income tax. Any excess credit will not be refunded, but can be carried forward for up to five years. An expense cannot be used both as a deduction and as the basis for a credit. Any expense used in computing the allowable credit cannot be taken as a deduction.

Employers must have their child care program certified by the Department of Health for programs serving children twelve (12) years of age or younger and for programs serving elderly adults and by the State Tax Commission for programs serving other dependents older than twelve (12) years of age. A copy of the certification must be furnished by the taxpayer to the State Tax Commission when the certification is granted. Information can be obtained at the following office: Mississippi State Department of Health, Division of Child Care and Special Licensure, P. O. Box 1700, Jackson, MS 39215-1700.

Basic Skills Training or Retraining Credits. A credit is allowed for certain employer-sponsored basic skill training and retraining programs.

The credit allowed is 25% of qualified expenses not to exceed 50% of the income tax liability. Any excess credit will not be refunded, but can be carried forward for up to five (5) years. The job training and retraining tax credit shall be in addition to all other tax credits

heretofore granted by the laws of this state.

Temporary Assistance to Needy Families Wages Paid Credit. This income tax credit is for employers who hire persons who are receiving Temporary Assistance to Needy Families (TANF) at the date of hire. This credit is was repealed from and after January 1, 1999. No one hired on or after January 1, 1999 will qualify an employer for this credit.

No credit shall be claimed for wages paid to any person for more than 36 months, regardless of the number of employers who employ such person.

An employer shall not receive the credit if such employer dismisses an employee to create a position for an TANF recipient. Any unused credit cannot be carried forward.

Form 83-455 is **required** to be filed with the Mississippi State Tax Commission within 45 days of hiring such person. Failure to do so will void any credit which the employer was eligible for due to hiring such person. This form is available by calling (601)923-7000. As with any other credit a detailed schedule must be attached to the income tax return in which TANF tax credit is claimed.

Mississippi Business Finance Corporation Revenue Bond Service Credit. Only debt service paid on revenue bonds issued by the Mississippi Business Finance Corporation to finance economic development projects to induce the location of manufacturing facilities within this state can be taken as a credit. This credit can be used against the taxes due from the income generated by or arising out of the economic development project. For more information on the benefits of this program contact the Mississippi Department of Economic and Community Development, P. O. Box 849, Jackson, MS 39205-0849.

Ad Valorem Inventory Tax Credit. This is an income tax credit for manufacturers, distributors and wholesale or retail merchants for a certain amount of ad valorem taxes paid on commodities, goods, wares and merchandise held for resale. The credit may be claimed only in the year in which the ad valorem taxes are paid and may be claimed for each location where such commodities, products, goods, wares and merchandise are found and upon which the ad valorem taxes have been paid. For the 1997 tax year and beyond the tax credit for each location on which ad valorem taxes have been paid, shall not exceed the lesser of \$5,000 or the amount of income taxes attributable to such location.

The act also provides that any ad valorem taxes paid by a taxpayer that is applied toward the tax credit may not be used as a deduction by the taxpayer for state income tax purposes.

A COPY OF THE TAX RECEIPT FROM THE COUNTY THAT SHOWS THE INVENTORY VALUATION AND A SCHEDULE SHOWING THE CALCULATION OF THE AD VALOREM TAX PAID BASED ON THE VALUATION MUST BE ATTACHED TO THE RETURN.

Export Port Charges Credit. An income tax credit is authorized for taxpayers that utilize the port facilities at state, county, and municipal ports. The income tax credit is equal to the total export cargo charges paid by the taxpayer for: (a) receiving in the port; (b) handling to a vessel; (c) wharfage. The credit provided shall not exceed 50% of the amount of tax imposed upon the taxpayer for the taxable year reduced by the sum of all other credits. Any unused portion of the credit may be carried forward for the succeeding 5 years. The maximum cumulative credit that may be claimed by a taxpayer pursuant to this act beginning January 1, 1994 and ending December 31, 2002 is limited to \$1,200,000. The act is effective January 1, 1994, and shall stand repealed after December 31, 2002.

Reforestation Tax Credit - Beginning in 1999, this credit, based on the costs incurred for certain approved reforestation practices, is an amount equal to the lesser of fifty percent (50%) of the actual cost of approved practices or fifty percent (50%) of the average cost of approved practices as established by the Mississippi Forestry Commission. The lifetime maximum reforestation tax credit that an eligible owner may earn and/or utilize is ten thousand (\$10,000) in the aggregate. For an S Corporation, these limitations apply to the S Corporation and to each shareholder. In any taxable year, the credit shall not exceed the lesser of ten thousand (\$10,000) or the amount of income tax imposed upon the eligible owner for the taxable year reduced by the sum of all other credits allowable to the eligible owner. Any unused portion of the credit may be carried forward to succeeding years. Generally, reforested acreage on which the eligible owner receives any state or federal cost share assistance funds to defray the cost of an approved reforestation practice is not eligible for the credit. The credit is not available to private corporations which manufacture products or provide public utility services of any type or any subsidiary of such corporations.

General Restrictions on the Incentive Credits

The only credits whose usage are dependent on another credit are the Export Port Charges Credit and the Reforestation Tax Credit. The Reforestation Tax Credit should be used last. The total of the Jobs Tax Credit, the Headquarters Credit and the R & D Skills Credit, cannot exceed 50% of the total income tax due. The other credits are not limited in such a manner and their usage will be independent of one another. When one credit is limited to 50% of the income tax due and another one is also limited to 50% then combined they may offset 100% of the income tax due. It will be up to the taxpayer to list which credits are to be used on the tax return. Please keep in mind that a number of the credits do not have carry forward provisions.

Advanced Technology, Enterprise Zone or Corporate Headquarters Facilities Credit are credits that were qualified for prior to July 1, 1989 that are still being used by a few

taxpayers. They can offset 100% of the income tax due but they cannot be carried forward.

A deduction will not be allowed for any expense which serves as the basis for an income tax credit. Since the credit is against 100% of Mississippi tax, the disallowed deduction shall be an add back to Mississippi income or loss after any apportionment of income.

The credits allowed shall not be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credit.

Line Item Instructions for Form 83-105, page 1

Taxpayer Information

Please provide all information requested. County codes are listed in the following table. Enter the code corresponding to your principal business location.

County Codes.

County	Code	County	Code	County	Code
Adams	01	Itawamba	29	Pike	57
Alcorn	02	Jackson	30	Pontotoc	58
Amite	03	Jasper	31	Prentiss	59
Attala	04	Jefferson	32	Quitman	60
Benton	05	Jefferson-Davis	33	Rankin	61
Bolivar	06	Jones	34	Scott	62
Calhoun	07	Kemper	35	Sharkey	63
Carroll	08	Lafayette	36	Simpson	64
Chickasaw	09	Lamar	37	Smith	65
Choctaw	10	Lauderdale	38	Stone	66
Claiborne	11	Lawrence	39	Sunflower	67
Clarke	12	Leake	40	Tallahatchee	68
Clay	13	Lee	41	Tate	69
Coahoma	14	Leflore	42	Tippah	70
Copiah	15	Lincoln	43	Tishomingo	71
Covington	16	Lowndes	44	Tunica	72
Desoto	17	Madison	45	Union	73
Forrest	18	Marion	46	Walthall	74
Franklin	19	Marshall	47	Warren	75
George	20	Monroe	48	Washington	76
Greene	21	Montgomery	49	Wayne	77
Grenada	22	Neshoba	50	Webster	78
Hancock	23	Newton	51	Wilkinson	79
Harrison	24	Noxubee	52	Winston	80
Hinds	25	Oktibbeha	53	Yalobusha	81
Holmes	26	Panola	54	Yazoo	82
Humphreys	27	Pearl River	55	Out-of-State	83
Jackson	28	Perry	56		

Line 1 Enter the amount of taxable capital from Form 83-110, line 17.

Line 2 This is the amount of franchise tax to be remitted. The tax rate is \$2.50 per \$1,000 of taxable capital on line 1. Example: if the amount of taxable capital is \$1,080,000 then the franchise tax due is \$2,700. Franchise tax is due by the original due date of the return. The automatic six-month extension of time only extends the time for filing the return, not the payment of any tax. If the franchise tax is not paid by the original due date, interest and penalty for late payment should be computed and entered on line 15 below. See instructions for line 15 for the computation.

Line 3 An S corporation cannot join in the filing of a consolidated or combined income tax return. However, it can own a "qualified subchapter S subsidiary" (QSSS) - a corporation that would otherwise qualify for S status, that is 100% owned by the S corp parent, and for which the parent has made an election to be treated as a QSSS. All of the assets, liabilities, and items of income, deductions, and credits of the QSSS are treated for income tax purposes as if they belong to the parent, and its income, deductions and credits

are to be included in the parent's income tax return. However, for franchise tax purposes the QSSS should file its own return and determine its own franchise tax liability based on its taxable capital. If the return is for a QSSS which is filing solely to report its franchise tax liability, check the "Yes" block and enter the name and Federal employer identification number of the parent S corporation on whose return the income, deductions and credit of the reporting QSSS are being reported.

Line 4 Enter the amount from line 27 of Form 85-122, S Corporation Computation of Net Taxable Income Schedule. If a return is filed by a QSSS for franchise tax purposes only, as indicated on line 3, enter a zero.

Line 5 An S corporation is not subject to the income tax imposed by section 27-7-5, Mississippi Code of 1972, as amended. However, if the S corporation either (a) files a composite return and makes composite payments of tax on behalf of some or all of its nonresident shareholders, or (b) makes a payment of tax because it failed to obtain an agreement from a nonresident shareholder required by subsection (3)(a) of section 10 the Mississippi S Corporation Income Tax Act or because a nonresident shareholder fails to file a return and to make timely payments of all taxes imposed on the shareholder by this state, the amount of the payments should be entered here. See the instructions for filing a corporate composite return and for rates of tax for composite returns and the other payments indicated above. See instructions on page 2.

Line 6a As a general rule, any ad valorem tax credit generated by the S corporation would be passed through to the shareholders based on their respective ownership percentages. In the event that a composite return is filed on behalf of some or all of the nonresident shareholders, or in the event that a liability for taxes arises due to the failure to secure an agreement from a nonresident shareholder as discussed above or a nonresident shareholder fails to file a return and make timely payment of taxes due, any ad valorem credit which would otherwise be passed through to the shareholder(s) involved may be utilized against the tax liability shown on line 5. (Attach a schedule showing the ad valorem taxes utilized against each shareholder's tax liability)

Line 6b As a general rule, all other credits generated by the S corporation are passed through to the shareholders based on their respective ownership percentages. As indicated in the instructions for Line 6a above, other credits which would otherwise be passed through to the shareholders involved may be utilized against the tax liability shown on line 5. (Attach a schedule showing the other credits utilized against each shareholder's tax liability)

Line 7 Enter the net income tax due (line 5 less lines 6a and 6b). If the total of lines 6a and 6b equals or exceeds the amount shown on line 5, enter a zero.

Line 8 Enter the total franchise and income tax due. (Add lines 2 and 7)

Line 9 If the current Mississippi Income Tax liability (line 7) is \$200 or less, then estimated income tax payments were not required for this year. If the current year Mississippi Income Tax liability exceeded \$200, Form 83-305 should be completed and attached to the return. Enter on this line the amount shown on Form 83-305, line 18.

Line 10 Enter the total amount due for franchise and income tax, interest and penalty on underestimated income tax payments (add lines 8 and 9).

Line 11 Enter the amount of any overpayment from the 1998 return that was elected to be credited to 1999 estimated tax.

Line 12 Enter the total amount of estimated tax payments and payments with extensions. This should equal the total of quarterly estimated income tax payments and the amount of income and franchise tax paid with the request for an automatic six-month extension of time to file.

Line 13 Enter the total payments made for the tax year (add lines 11 and 12).

Line 14 Enter the balance of tax due. This is the amount of total tax due less previous payments (line 10 minus line 13).

Line 15 Enter the amount of interest and penalty due on late payment of the tax. An extension of time only extends the time for filing a return, not payment of the tax. If the income and franchise tax is not paid by the original due date of the return, then interest is due at the rate of 1% per month.

Penalties are imposed for failure to file a return or pay the tax when due. The penalty imposed for failure to pay the tax when due or on additional tax due is 1/2% per month not to exceed 25% in the aggregate. The penalty is based on additional tax due. Interest and penalty for late payment is not charged on interest and penalty on underestimated income tax payments. The correct amount to be used in computing the interest and penalty for this line (line 15) is line 8 minus lines 11 and 12.

The penalty imposed for failure to file a return is 5% per month not to exceed 25% in the aggregate. The penalty imposed for failure to file is based on the total amount of tax due (line 7), not additional tax due.

Line 16 Enter the amount that is remitted with this return (line 14 plus line 15). Make check payable to: **State Tax Commission** for the total amount due.

Line 17 If there is an overpayment (line 13 minus line 10), enter the amount of the total overpayment on this line. On lines 18 and 19, designate the disposition of this total overpayment. The total of lines 18 and 19 should equal line 17.

Line 18 Enter the portion of line 17 that you wish refunded.

Line 19 Enter the portion of line 17 that you wish to carry forward and credit against your next year's tax liability.

Instructions for Form 85-122 Computation of Net Taxable Income Schedule

Line 1. Enter the amount of **ordinary income or loss** from trade or business activities from Federal Form 1120S, **Page 1**.

Line 2. Enter the combined amount of the pass-through income or loss items shown on Federal Form 1120S, Schedule K, Lines 2 through 6.

Line 3. Enter the combined amount of pass-through deductions shown on Federal Form 1120S, Schedule K, Lines 7 through 11a, Line 15e, and Line 16b.

Line 4. Total Combine Lines 1 and 2, and then subtract Line 3 from the result. This amount represents Federal Net Income.

State Additions to Income

Line 5. State Income Tax Adjustment Taxes based on income are not deductible. Enter the amount of state, local and foreign government income taxes claimed as a deduction on Form 1120S.

Line 6. Interest Adjustment Interest on obligations of states and political subdivisions thereof outside Mississippi is taxable for Mississippi purposes. Enter the amount of interest on obligations of states and political subdivisions thereof (**other than Mississippi**) received by the corporation, **net of expenses**.

Line 7. Depletion Adjustment No deduction is allowed for depletion in excess of the cost basis of the depletable asset. Enter the amount of depletion claimed on Form 1120S in excess of the cost basis of the asset on which the depletion is claimed.

Line 8. Other Additions Add back any other item the taxability of which is treated differently for Mississippi income tax purposes than was treated for Federal income tax purposes. Itemize here. Attach a schedule if needed.

Line 9. Total Additions Self-explanatory.

State Deductions from Income

Line 10. Exempt Interest Interest received on U. S. Government obligations is not taxable to Mississippi. Enter the amount of such interest reported as income on Form 1120S, **net of expenses**.

Line 11. Wages Adjustment Federal income tax laws allow certain employment tax credits based on wages paid to employees, and a portion of the wages on which the credit was based is not allowed as a deduction. Mississippi does not allow these credits. Enter the amount by which wages were reduced on the Form 1120S by employment tax credits (such as the Targeted Jobs Credit).

Line 12. Enter the amount of gain, that is unrecognized under Section 27-7-9(f)(10)(a) or (b), included in Line 2 above. Certain long term capital gains from the sale of stock in domestic (Mississippi) corporations, or partnership interests in domestic limited partnerships, and domestic limited liability companies are exempt from income tax. Attach Form 83-135.

Line 13. Other Deductions Deduct any other item which is treated differently for Mississippi income tax purposes than was treated for Federal income tax purposes. Itemize here. Attach schedule if needed.

Line 14. Total Deductions Self-explanatory.

Line 15. Net Income or Loss for State Purposes Self-explanatory.

Note: The amount on Line 15 represents the amount taxable to resident shareholders even if a multistate S Corporation return is filed. If you are a 100% Mississippi taxpayer (as opposed to multistate), skip Lines 16 through 26 and enter the amount shown on Line 15 on Line 27 below. **Multistate taxpayers must complete Lines 16 - 26 for apportionment purposes.**

Line 16a. Add: Net Loss from Federal Form 4797 Enter the amount of net loss, if any, shown on Line 4, Form 1120S. This adjustment is necessary because Form 83-140 and/or Form 83-145 must be used to report these transactions for Mississippi purposes. See Line 23 below.

Line 16b. Add: Net Capital Loss Enter the net amount of capital loss from Form 1120S, Schedule K, Lines 4d and/or 4e. This adjustment is necessary because Form 83-135 must be used to report these transactions for Mississippi purposes. See Line 22 below.

Line 16c. Add: Net Loss under Section 1231 Enter the amount of loss from Federal Form 1120S, Schedule K, Line 5. This adjustment is necessary because Form 83-140 and/or Form 83-145 must be used to report these transactions for Mississippi purposes. See Line 23 below.

Line 16d. Deduct: Net Gain from Federal Form 4797 Enter the amount of net gain, if any, shown on Line 4, Form 1120S. This adjustment is necessary because Form 83-140 and/or Form 83-145 must be used to report these transactions for Mississippi purposes. See Line 23 below.

Line 16e. Deduct: Net Capital Gain Enter the net amount of capital gain from Form 1120S, Schedule K, Lines 4d and/or 4e. This adjustment is necessary because Form 83-135 must be used to report these transactions for Mississippi purposes. See Line 22 below.

Line 16f. Deduct: Net Gain under Section 1231 Enter the amount of gain from Federal Form 1120S, Schedule K, Line 5. This adjustment is necessary because Form 83-140 and/or Form 83-145 must be used to report these transactions for Mississippi purposes. See Line 23 below.

Line 17. Adjusted Federal Form 1120-S Income or Loss Line 15, plus Lines 16a through 16c, minus Lines 16d through 16f. Enter the result here.

Line 18. Nonbusiness Income or Loss Directly Allocable Enter here the total amount of nonbusiness net income or loss directly allocable to the various states, including Mississippi. Attach a schedule detailing income and expenses relating to the nonbusiness or allocable activities. This relates to items such as nonbusiness interest and foreign dividends, etc.

Line 19. Net Business Income or Loss Subtract Line 18 from Line 17. This is the amount of business income subject to apportionment by corporations with multistate operations.

Line 20. Apportionment Ratio Enter the apportionment ratio determined from Form 83-125, Part II.

Line 21. Mississippi Net Business Income or Loss Multiply the amount shown on Line 19 by the Apportionment Ratio shown on Line 20 and enter the results on this line.

Line 22. Mississippi Capital Gain Net Income or Loss Enter the amount from Form 83-135, Line 19. This amount corresponds with the amount of capital gain (loss) reported on Federal Form 1120S, Schedule K, Lines 4d and 4e, from Federal Schedule D.

Line 23. Mississippi Net Gain or Loss Enter the amount from Form 83-140, Line 12 and/or Form 83-145, Line 12. This amount corresponds to the amount of gain or loss reported on Federal Form 1120S, Line 4, and Schedule K, Line 5, from Federal Form 4797.

Line 24. Direct Accounting Income or Loss Enter the amount from Form 83-124, Page 1, Line 31 or Page 2, Line 15. If the multistate entity filing direct accounting has no other Mississippi sourced income, this will be the first entry on Form 85-122.

Line 25. Nonbusiness Income or Loss Directly Allocable to Mississippi. Note: An entry is required on this line only if you are a multistate entity and an entry was made on Line 18. Attach a schedule detailing income and expenses relating to the Mississippi nonbusiness or allocable activities.

Line 26. Other Business Income or Loss Enter here the net income or loss realized from any other business venture not reported elsewhere in this return. Attach a schedule detailing income and expenses relating to the activities reported on this line.

Line 27. Mississippi Taxable Income or Loss 100% Mississippi - enter the amount

from Line 15 above. Multistate - Combine Lines 21 through 26 and enter the result here and on Form 85-105, Page 1, Line 4.

District Offices of the State Tax Commission

Brookhaven	212 South 1st Street	601-833-4761
Columbus	4072 Highway 45 North	662-328-3271
Greenwood	117B Grand Blvd.	662-453-1742
Gulf Coast	1141 Bayview Ave. (Biloxi)	228-896-1393
Hattiesburg	17 JM Tatum Industrial Dr., Ste 2	601-545-1261
Jackson	1577 Springridge Rd, (Raymond).	601-923-7300
Meridian	2600 Old Northhills Street	601-483-2273
Senatobia	115 South Ward Street	662-562-4489
Tupelo	4008 West Main Street	662-842-4316

Completing the Return

Use black ink when preparing this return. Additional schedules or attachments may be stapled to the return. Follow the line instructions on the return. Additional specific instructions follow.

Round to the Nearest Dollar

All dollar amounts should be rounded to the nearest whole dollar (no pennies). Round down to the next lower dollar amounts under \$.50 and round up to the next higher dollar amounts of \$.50 and over. For example: \$2.15 becomes \$2.00; \$4.75 becomes \$5.00; and \$3.50 becomes \$4.00.